

DEVELOPMENT CONTROL COMMITTEE – 31 MAY 2005

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

REPORT OF THE HEAD OF PLANNING

1. Planning Applications

2. Appeals

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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the Planning Services Manager's report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Planning Services Manager, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

31/05/2005

Item 1.1**Reg. No.** 9/2004/1514/M**Applicant:**

St Modwen Developments Ltd
 Lyndon House
 58/62 Hagley Road
 Edgbaston
 Birmingham
 B16 8PE

Agent:

Barton Willmore
 The Barton Willmore Planning Partnership
 Beansheaf Farmhouse
 Bourne Close
 Calcot
 Reading
 RG31 7BW

Proposal: Outline planning (all matter to be reserved) for industrial and business development at Area E5 Former Hilton Depot Hilton

Ward: Hilton

Valid Date: 18/11/2004

Site Description

The site is located in the southeast corner of the Hilton Depot site. The land comprises two distinct areas. The first is located at a high level consistent with the levels on the rest of the Depot site. The second is at a much lower level; quite a steep embankment marks the transition between the two levels. The site is enclosed on three sides by the remaining depot land and the fourth is formed by the boundary to the adjacent farm. The northwest boundary is concurrent with the access to the depot, now closed in favour of an access from The Mease. To the south is an area of woodland shown on the Master Plan to be retained. It is possible that there may be protected species in that area. The boundary to the farm is substantially open at present.

Proposal

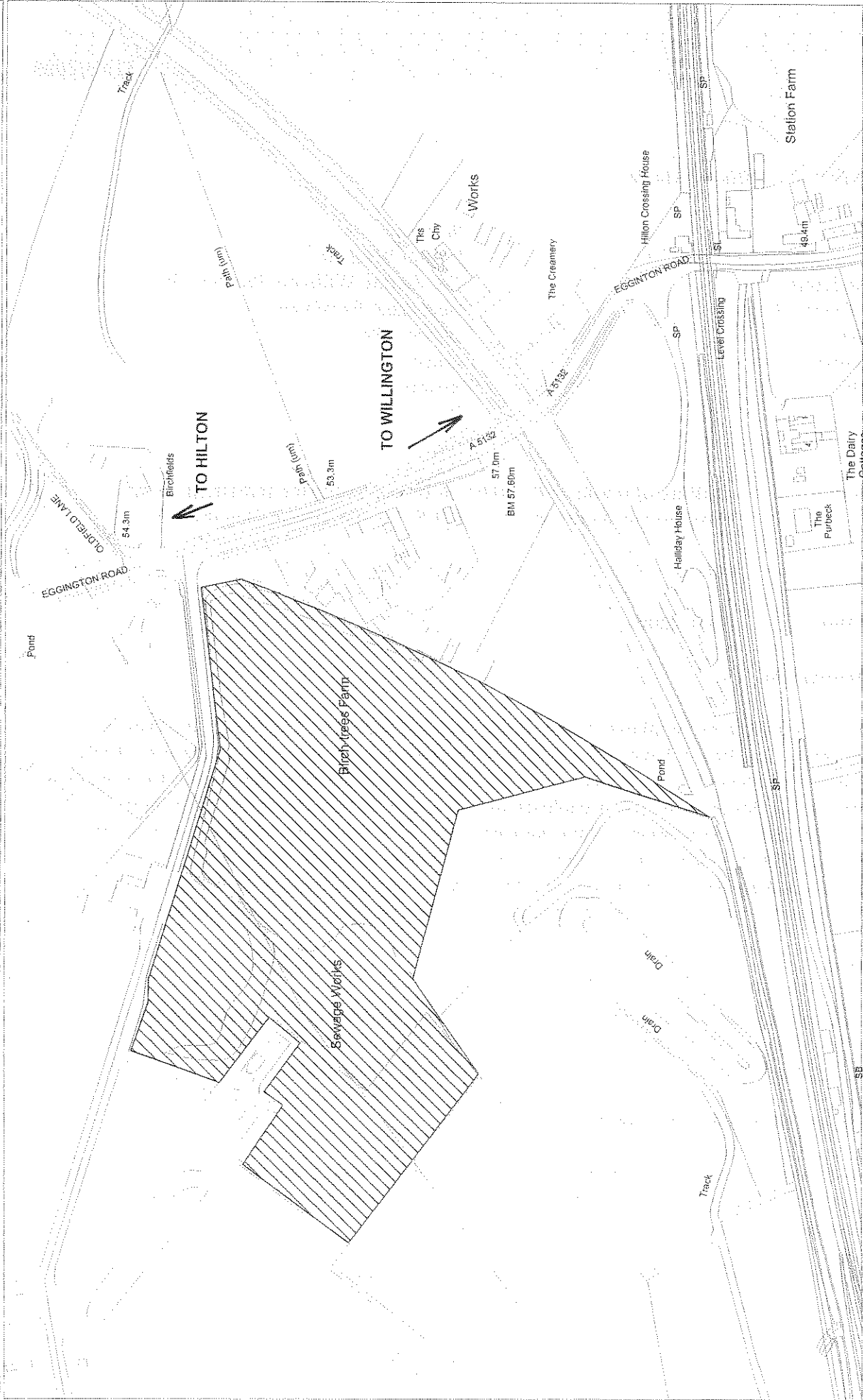
This application seeks outline planning permission for industrial and business development within Use Classes B1, B2 and B8 on land parcel E5, located in the southeast corner of the Hilton Business Park site. The application site measures 3.32 hectares in total.

Applicants' supporting information

Prior to its acquisition by the applicant, Severn Trent Water owned the land and Severn Trent Water has retained a small parcel of land between the application site and land parcel E4 to accommodate a pumping station.

The policy context for the application site is that it lies outside the Employment allocations in both the adopted and emerging Local Plans. As such, the application may need to be treated as a departure, albeit, it is suggested, that it is at worst a minor departure.

9/2004/1514/M Area E5 Former Hilton Depot
Hilton



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Scale 1:2500

Plot centred at 428536 325343

Date Plotted 19/5/2005

9/2004/1514/M Area E5 Former Hilton Depot
Hilton

The original outline planning permission for the redevelopment of the Former MoD Depot granted in 1993 included a minimum of 36.4 hectares (90 acres) of land for business and industrial development. The reallocation of sites H23/H24 (formerly E1 & E2) to housing land, the total amount of employment land currently proposed at Hilton measures 30.56 hectares in area. This is approximately 1.4 hectares below the Revised Deposit Draft Local Plan Policy EMP1 requirement for Hilton of 31.92 hectares.

A 10m wide landscape buffer is proposed along the site's eastern boundary to perform an important screening function. That equates to 0.23 hectares, from the total site area leaves a developable area of 3.09 hectares. The addition of this site, E5, to the existing proposed employment area would make good the current shortfall in provision versus the Revised Deposit Draft Local Plan requirement at what is considered to be a logical and appropriate 'rounding off' of the land at Hilton as the site E5 is enclosed on three sides by the employment allocation.

The proposal would also make effective use of what is presently under-used land for which there are few, if any other beneficial land uses given the surrounding land uses. In this regard, the application would be consistent with adopted Structure Plan policy which *inter alia* aims to provide a balance of growth of employment and housing provision in order to reduce the need to travel, to make full and effective use of derelict, despoiled, unused and under-used land, and to retain flexibility to accommodate business or general industrial uses on key employment sites. In this connection, we note the comments of the Local Plan Inquiry Inspector that the employment allocation at Hilton "represents an important supply of accessible and available Class B1, B2 and B8 development land in a sustainable location" (paragraph 5.1.48). Access would be achieved off the existing spine road within the employment allocation.

The proposed development will accommodate and make provision for this movement to the foraging areas identified. NB. It should be noted that no licenses are required to work site E5. The recommendations contained in the reports accompanying the application are provided to ensure compliance with 'best practice guidelines'.

The application is commended to the Council to help to meet its employment allocation in the Structure and Local Plans.

Planning History

Severn Trent Water, as stated by the applicants, formerly owned this land. There have been several proposals on the site related to that use. The most recent being the installation of a pumping station and associated pipes to direct sewerage to the Clay Mills works near Burton on Trent.

Responses to Consultations

Hilton Parish Council has no objection.

The County Planning Authority has no objection

The County Highway Authority has no objection subject to conditions limiting access to the land via The Mease.

Following the submission of a flood risk assessment, the Environment Agency has no objection but requires a contaminated land survey to be undertaken before development is commenced.

The Environmental Protection Manager has added his comments about the need for a contaminated land study to be undertaken, together with measure to draw up a strategy to minimise noise impacts emanating from the site.

English Nature has no objection subject to conditions to protect fauna that may be present on the site.

The Derbyshire Wildlife Trust has noted the comments made in the ecological surveys of the site and recommends that measures be put in place to protect the fauna that may be present on the site.

Central Networks has no objection subject to safety distances from its equipment being maintained, that is for a distance of 15 metres either side of the centre line of a 132 kV line and tower. If this safety margin is not maintained, then the offender may be liable to prosecution by the Secretary of State. The company would require information from the applicants to ensure that these margins are maintained. [Details will be forwarded with the decision notice.]

The Community Safety, Crime Prevention Design Advisor states that it will be important to design measures into the development at the detail stage to minimise the opportunity for criminal activity.

Responses to Publicity

One letter has been received objecting to the development for the following reasons: -

- a) The site is a haven for nesting birds and there are newts living in the marshy areas.
- b) St Modwen have allowed tipping on the land in the last year and destroyed several trees, to keep tipping will affect the water table.
- c) Protected species use the woods to the east of the site and the future of these will be put at risk if development is permitted
- d) The proposed uses for the site are very vague with no indication of what type of building would go where.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policies 17, 18 & 19; Transport Policies 1, 3, 4, 5, 9, 10 and 15.

Local Plan: Environment Policy 2; Transport Policies 4, 6, 7 and 8.

Emerging Local Plan: Policies ENV 1, 2, 3, 12, 13, 14, 15, 16, 17, 21; T1, 2, 3, 4, 5 and 9.

Planning Considerations

The main issues central to the determination of this application are:

- The Development Plan
- Site levels

- Access
- Environment Considerations

Planning Assessment

The Development Plan

The applicants state that there is no basis in the development plan for the development of this land for employment use and this is confirmed. If the Committee is minded to grant planning permission, this is a case that would need to be referred to the Government Office for the East Midlands. This is different to the proposal for the conversion of H23 and 24 to residential use in that that proposal was part of the amendments to the emerging Local Plan that the Inspector supported. In this case there is no such provision in the Local Plan.

The applicants argue that there is a shortfall in the requirements set out in the adopted Local Plan insofar as the removal of the employment use to residential use creates a shortfall in the overall provision. It is argued that the use of the application site would be an adequate replacement for that land.

The Structure Plan requires no overall increase in the amount of employment land in the Derby Sub area above the allocations made in the Local Plan. The replacement of the provision by use of the application land would result in no overall addition to the employment land allocations in the Local Plan and it is considered that there would be no material breach of the Development Plan objectives if permission were granted for this use. The County Planning Authority has raised no objection from a strategic planning point of view.

Difference in Levels

There is a significant difference in the levels across the site. This would need to be addressed as part of the reserved matters application, but could have the effect of reducing the amount of land that is available for development. An appropriate condition is recommended.

Power Line

The power line is a 132 kV line that crosses the site from southwest to northeast. The requirements of Central Networks, and through them the Secretary of State, would sterilise a 30-metre strip centred on the route of the power line.

Environmental Considerations

Noise – the nearest dwelling is situated on Egginton Road, Birch Tree Farm; the Environmental Protection Manager has requested a condition requesting that a noise minimisation strategy forms part of the development of the site. Noise issues can also be addressed by limiting the use of that part of the site nearest the farm. The nearest building to the north boundary is the White Swan Public House but this is a commercial activity and residential amenity is unlikely to be affected due to the distance from the site.

The main nature conservation issues can be controlled by conditions; the foraging routes and breeding areas can be protected and may be enhanced by the provision of a bund along the southeast boundary of the site.

Access

The County Highway Authority is satisfied that the land can be served from the existing road pattern. There would be a need to ensure that the internal access roads link to more than one of the traffic islands on The Mease to ensure appropriate access to the site.

Conclusion

The site is enclosed on two sides by land that is allocated for development; the third is occupied by an area of woodland identified in the master plan for retention and by a proposed landscaped bund on the other side. It is well related to the remaining depot site and it is considered that the proposal would accord with the general principles of PPS 1 of making use of previously developed land.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

For the reasons outlined above, advise the Government Office for the East Midlands that South Derbyshire District Council is minded to **GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
 (b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of the locality generally.

4. In addition to the details required in Condition 2 above, a further survey of protected species likely to inhabit the area of E5 and the adjacent woodland shall be submitted to and approved in writing by the Local Planning Authority. The development shall subsequently be undertaken in accordance with the approved details.

Reason: In order to minimise the potential impact of the development on the fauna in the locality.

5. In submitting the details required by Condition 4 above, provision shall be made to prevent access by protected species to the development site through the provision of a suitable fence. The approved fence shall be erected prior to the commencement of other works to construct the site. The fence shall be maintained in place unless the Local Planning Authority has granted permission for an alternative in response to an application made in that regard.

Reason: In order to minimise the potential impact of the development on the fauna in the locality.

6. In submitting the landscape details required by condition 2 above, provision shall be made for the construction of a landscaped bund along the northeast boundary of the site. The proposed scheme shall make provision for the passage of protected species through the land to allow access to foraging grounds to the north of the development site.

Reason: In the interests of the appearance of the area.

7. In submitting the details required by Condition 2 above a report on a further reptile survey shall be submitted to the Local Planning Authority. The survey shall report on the presence or otherwise of reptiles and identify mitigation measures to ensure that the habitat of protected species is maintained or replaced in accordance with an agreed strategy. The approved details shall then be implemented prior to general development works being commenced.

Reason: In order to minimise the potential impact of the development on the fauna in the locality

8. In addition to the details required by condition 2 above, a Master Plan for the development of the employment areas incorporating the area edged red and the relevant areas blue on the application drawing shall be submitted to and approved in writing by the Local Planning Authority. The development of the site shall thereafter be guided by the principles set out in the Master Plan. In drawing up the Master Plan details of the roads to serve the employment areas shall be included and provision shall be made to ensure that area E5 is accessible from two access points on The Mease.

Reason: In the interests of the proper planning of the area.

9. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:

1. A desktop study of the area of the proposed development.
2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
4. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

10. Before development is commenced, details of measures to limit noise from buildings and the application site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the building for which permission is granted. The measures shall thereafter be maintained in place in perpetuity.

Reason: In the interests of the amenity of the occupiers of nearby dwellings.

Informatives:

You are advised that it is an offence under the Wildlife and Countryside Act 1981 to remove trees or shrubs that are being used for breeding during the bird-nesting season. Accordingly site clearance work to trees and shrubs should only be undertaken outside the nesting season. For the discharge of the site investigation, as a minimum, the report should include:

- a) Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- b) Detailed on site sampling to identify any contamination.
- c) The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- d) An assessment of any off site impacts such as the effect on watercourses etc.
- e) A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- f) Plan of action if further contamination is identified during remediation.
- g) Details of the measures to verify that the contaminant has been removed to an acceptable level.
- h) The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- i) Details of the long and short term risk to human health including the construction phase and post-development.
- j) Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following:

- I. Model Procedures for the Management of Land Contamination CLR 11
- II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA
- III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
- IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- V. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.

Soil contamination or the potential for it is a material planning consideration and must be taken into account by a local planning authority in the determination of a planning application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

If a reclamation strategy is submitted and agreed by the planning authority compliance with it will be condition of any subsequent approval.

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy.

Your attention is drawn to the requirements of Central Networks as set out in the attached letter and documents dated 15 December 2004.

The comments of the Community Safety, Crime Prevention Design Advisor are also attached for you information. Your attention is also drawn to the attached Supplementary Planning Guidance for the development of Industrial Sites.

You are advised that in drawing up proposals to submit under the provisions of Conditions 2, 3, 8 & 10, you should be aware of the following matters; -

- a) The noise sensitive property lies adjacent to the east boundary of the site and consideration should be given to ensuring uses on this part of the site are likely to conform to the requirements of Class B1 of the Use Classes Order 1987 (as amended).
- b) The woodland to the south boundary is likely to contain species that are protected under the Wildlife and Countryside Act 1981, care should therefore be exercised to ensure that built development is not located close to that boundary. Consultation with English Nature is recommended prior to submitting detailed proposals.
- c) It may be that because of the difference in levels between the site and the presence of the 132kV power line across the site that the type of building that could be erected would be limited, accordingly the submitted details should address these issues.

31/05/2005

Item: 1.2**Reg. No.** 9/2004/1623/F**Applicant:**

R Litting
 Old Forge Nursery
 The Green
 Findern
 Derby
 DE65 6AA

Agent:

S Foote - ADDC Architects
 Studio 34
 Clarke Street
 Derby
 DE1 3RZ

Proposal: The erection of a two storey building containing two apartments and two duplexes with private driveway at Old Forge Nursery The Green Findern Derby

Ward: Willington & Findern

Valid Date: 20/12/2004

This case is brought to committee at the instruction of Councillor Ford.

Site Description

The site comprises a slightly sloping site that currently forms part of the rear garden of The Old Forge Nursery building. It is enclosed on two sides by larch lap fencing, a low fence to the nursery boundary and a mix of scrubby trees and shrubs along the north boundary. Beyond the north boundary the land drops vertically to the site of Archway Motors that has a range of workshops along the common boundary.

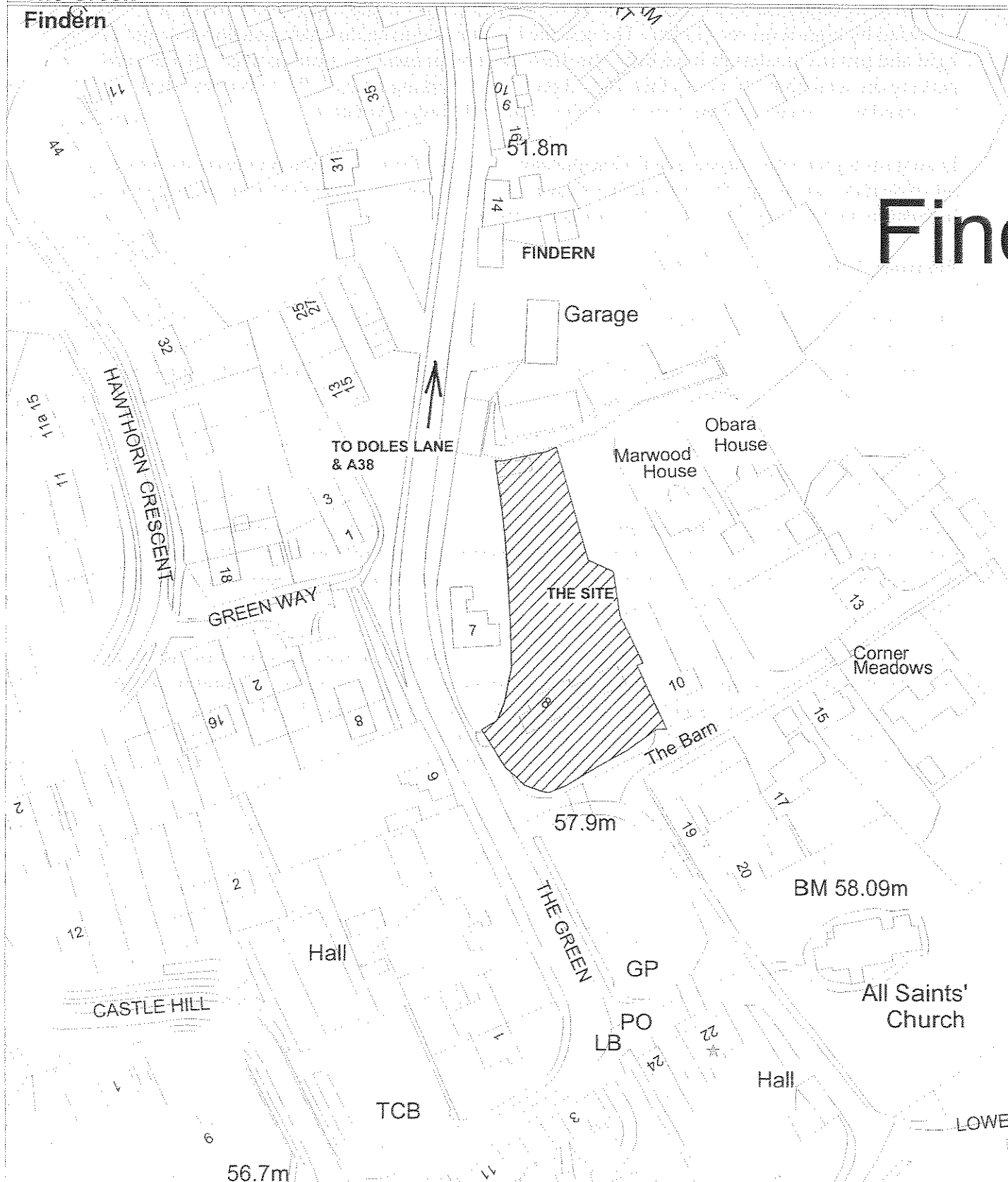
There is a dwelling that immediately abuts the proposed access to the site that passes between the nursery and the adjoining house. There are no windows directly overlooking the drive but there is one small window in the rear of the adjoining property that looks down the proposed drive.

Proposal

Two apartments are proposed in the north part of the building and two duplex units in the part of the building adjoining the west boundary. The duplex units are on two floors with a full height corridor along the inside of the east elevation. Thus the first floor is suspended away from the first floor windows by 1.0 metre, thus views from the upper floor windows are restricted.

The scheme has been amended to remove the bin store from the neighbours boundary and layout of the parking areas now allows for more planting to be retained along the common boundary.

9/2004/1623/F Old Forge Nursery
The Green
Findern



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Scale 1:1250 Date Plotted 19/5/2005

Plot centred at 428536 325343

9/2004/1623/F Old Forge Nursery
The Green
Findern



Applicants' supporting information

The west elevation has been designed with no windows, light to the upper floor would be provided by high-level roof lights. The scheme has been designed to retain neighbours right to light and privacy; materials have been specified that compliment the surroundings. Access and parking are available off site so that there should be no parking around The Green and these are to a standard to meet the requirements of the County Highway Authority.

In submitting the latest layout plan the applicants' have confirmed that the proposals are based on an accurate survey of the site and has shown that the distances to neighbouring windows are in fact greater than was shown on the original drawing.

Planning History

The ground forms part of the grounds of the Old Forge that is currently used as a day nursery. It should be noted that the grounds on which the dwellings are proposed are not part of the operational site of the nursery albeit that the land is clearly currently available to the nursery. There is no relevant planning history affecting the ground upon which the dwellings would be situated.

Responses to Consultations

Findern Parish Council has fundamental objections to the development concerning additional traffic using The Green, its narrow width that is exacerbated at busy times by traffic parking on the road. Residents find that car users are turning in driveways and that is both a nuisance and trespass.

The County Highway Authority would prefer to see two additional parking spaces but does not consider that this is a sustainable objection and thus has no objection subject to conditions that require the provision of the parking spaces before the occupation of the dwellings and that the areas are maintained free of obstruction to their designated use. The car parking of the existing use on the site should be maintained available at all times.

The Environmental Protection Manager has no objection.

Responses to Publicity

Three letters have been received objecting to the development for the following reasons: -

- a) There is already a problem with congestion on The Green when parents deliver and collect their children to the nursery; if it were not for the alertness of residents it is certain that there would have been accidents. To add additional traffic to the area would be unsafe and add to existing problems.
- b) The shared access would aggravate the existing problems this is a problem that the Council seems to consistently overlook.
- c) There is a real concern that emergency vehicles would not be able to access properties if the proposal went ahead.
- d) The dwellings will overlook the house next door unless there is appropriate fencing or planting along the common boundary.

- e) The parking areas are too close to the boundary any the fumes could set off asthma attacks in resident who live next door.
- f) There is concern that the septic tank may overflow into the next-door vegetable garden.
- g) The proposed refuse area is too close to the boundary and would cause unpleasant smells and could be a health risk.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: Policy H1.

Planning Considerations

The main issues central to the determination of this application are:

- The Development Plan
- The impact on neighbours
- The access to the proposed dwellings
- Parking issues.

Planning Assessment

The development would be taking place within the confines of a serviced village where the reuse of previously developed land is encouraged provided that the development would not result in a loss of a significant open space within the village and that the amenity of neighbours is not unduly affected.

The distances between the proposed dwellings windows and the windows at the nearest neighbouring dwellings are greater than those required in the Council's adopted Supplementary Planning Guidance. All other dwellings are also further from the proposed dwellings than is required by the standards. These lie to the east of the proposal and are slightly elevated above the site.

The access to the dwellings is via a driveway between the nursery building and the adjacent dwelling. Other than a small window at ground floor level in the rear elevation, there are no windows immediately overlooking the driveway. It is not considered that the use of the drive by occupiers of the new dwellings would be detrimental to the amenity of the occupiers of that dwelling. The County Highway Authority has no objection to the use of the access and the congestion referred to by the objectors would not be a permanent feature in terms of the length of time it occurs such that a reason for refusal could be justified at appeal.

The parking arrangements are adequate for the three one-bedroom apartments and single two-bedroom dwelling proposed. Six spaces are proposed, whereas the annex to the Local Plan looks for 7.5 spaces as a maximum. The County Highway Authority has noted the difference but states that the slightly lesser number of spaces would not constitute a sustainable reason for refusal in its own right. This is accepted as the proposed standards represent a maximum number of spaces that can be required of a development.

The application has been amended to remove the proposed bin store away from the boundary to 7 The Green and the parking areas would be screened from existing window by the fence and planting areas to be retained or implemented.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no.04-14 01 Revision B and the following drawings submitted with the application - 04-14 02; 03.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the interests of the appearance of the building(s), and the character of the area.

4. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

5. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally.

6. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

8. During the course of construction and following the occupation of the dwellings hereby permitted, none of the car parking areas to the Old Forge Day nursery shall be utilised for the parking of traffic associated with the development of the site.

Reason: In the interests of maintaining parking space available for the day nursery during the construction and occupation of the development.

9. Before the dwellings hereby permitted are occupied, the parking space shown on drawing 04-14 01 Revision B shall be provided and hard surfaced. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), the parking areas, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose in the location shown on the approved drawing unless otherwise be approved in writing by the Local Planning Authority in response to an application made in that regard.

Reason: To ensure that adequate parking/garaging provision is available.

10. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.

11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

Informatives:

In submitting drainage details required above, it shall be demonstrated that the soakaway and septic tank can operate without detriment to the occupiers of the adjacent dwellings.

31/05/2005

Item 1.3**Reg. No. 9/2005/0112/U****Applicant:**

Burnaston Garage
 Etwall Road
 Mickleover
 Derby
 DE30BX

Agent:

Mr. P. Billham
 Old School Lodge
 Aston On Trent
 Derbyshire
 DE72 2AF

Proposal: **The formation of a temporary car sales display area on land at Burnaston Garage Grassy Lane Etwall Derby**

Ward: **Etwall**

Valid Date: **31/01/2005**

This application is brought to the Committee on the instruction of Councillor Lemmon.

Site Description

The site comprises a small part of the overall land holding at Burnaston Garage. It is enclosed on three sides by hedges but on the north side there is also a fence. Grassy Lane forms the fourth boundary to the site that lies on the east side of the lane separate from the main site.

Proposal

The applicant is seeking temporary permission to sell cars pending the completion of the new showrooms and workshops currently under construction. The period requested is 12 months. The proposed opening hours are 0800 – 1800 Monday to Saturday and 1000 – 1600 on Sundays.

Applicants' supporting information

None

Planning History

The land is subject to a planning condition prohibiting its use for the sale of motor vehicles, however it has been used for the general parking of cars (9/1989/0399 refers).

Responses to Consultations

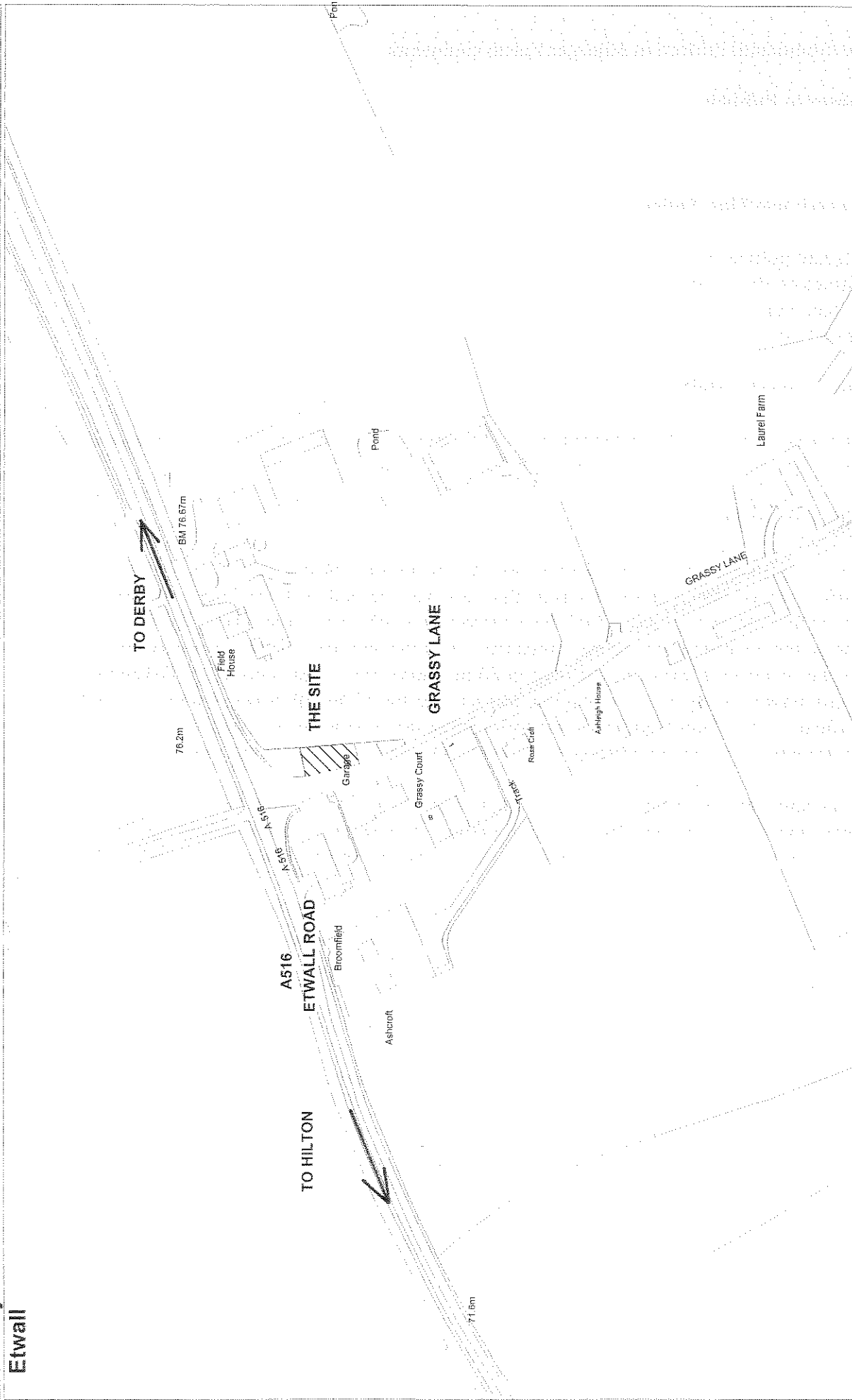
Burnaston Parish Council has no objection subject to adequate customer parking being provided so that cars do not park on Grassy Lane thus restricting access to the houses on the lane.

The County Highway Authority has no objection to the temporary use of the land for car sales.

9/2005/0112/0 Burnaston Garage

Grassy Lane

Etwall



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Scale 1:2500

Plot centred at 428536 325343

Date Plotted 19/5/2005

9/2005/0112/F Burnaston Garage
Grassy Lane
Etwall



The Environmental Protection Manager has no comments.

Responses to Publicity

None

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: None

Local Plan: None

Emerging Local Plan: None

Planning Considerations

The main issue central to the determination of this application is the impact of the temporary use of the land for car sales on the immediate locality.

Planning Assessment

The land has been used for a considerable time for the parking of vehicles and in the early days some officer action was required to ensure that cars were not sold from the site in the interests of highway safety. In recent times, until the construction works were commenced for the new workshops, the condition had not been breached. It is the applicant's stated intention that the land should revert to its previous use once building works have been completed. Given that cars are already parked on the site, the material impact over the 12-month period requested would not be significant. The County Highway Authority states that it now has no objection [notwithstanding it's concern expressed in 1991 when the A516 was a trunk road].

Whilst the applicant has requested a 12-month temporary period, the land has been used for sales whilst this application has been under consideration. Accordingly it is considered that the permission should expire 12 months from the date that the application was submitted.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. This permission shall be for a limited period only, expiring on 31 January 2006 on or before which date the use hereby permitted shall be discontinued and the use of the site shall revert to the parking of vehicles not for sale.

Reason: The site is divorced from the main part of the site in the vicinity of the junction with the A516. Whilst a temporary period to use the land for the sale of vehicles is considered acceptable, the permanent use of the site with people crossing and recrossing the lane in such close proximity to the junction is considered detrimental to the best interests of highway safety.

31/05/2005

Item 1.4**Reg. No.** 9/2005/0150/F**Applicant:**

Derby Diocesan Board Of Education
 Derby Church House
 Full Street
 Derby
 DE1 3DR

Agent:

John Gratton
 Blair Gratton Associates
 83 Burton Road
 Derby
 DE1 1TJ

Proposal: The erection of a primary school on Land At Forrester
 Avenue Weston-on-trent Derby

Ward: Aston

Valid Date: 08/02/2005

Site Description

The site is open land currently used as a playing field and recreation area. It is bounded to the south and west by residential development and to the north by the car park to The Plough Inn. A mature hedgerow defines the eastern boundary beyond which there are open fields. Vehicular access to the site is currently via Forrester Avenue. There is pedestrian access to the public footpath that runs through the Plough car park.

The site slopes downwards from the western boundary, in an easterly direction.

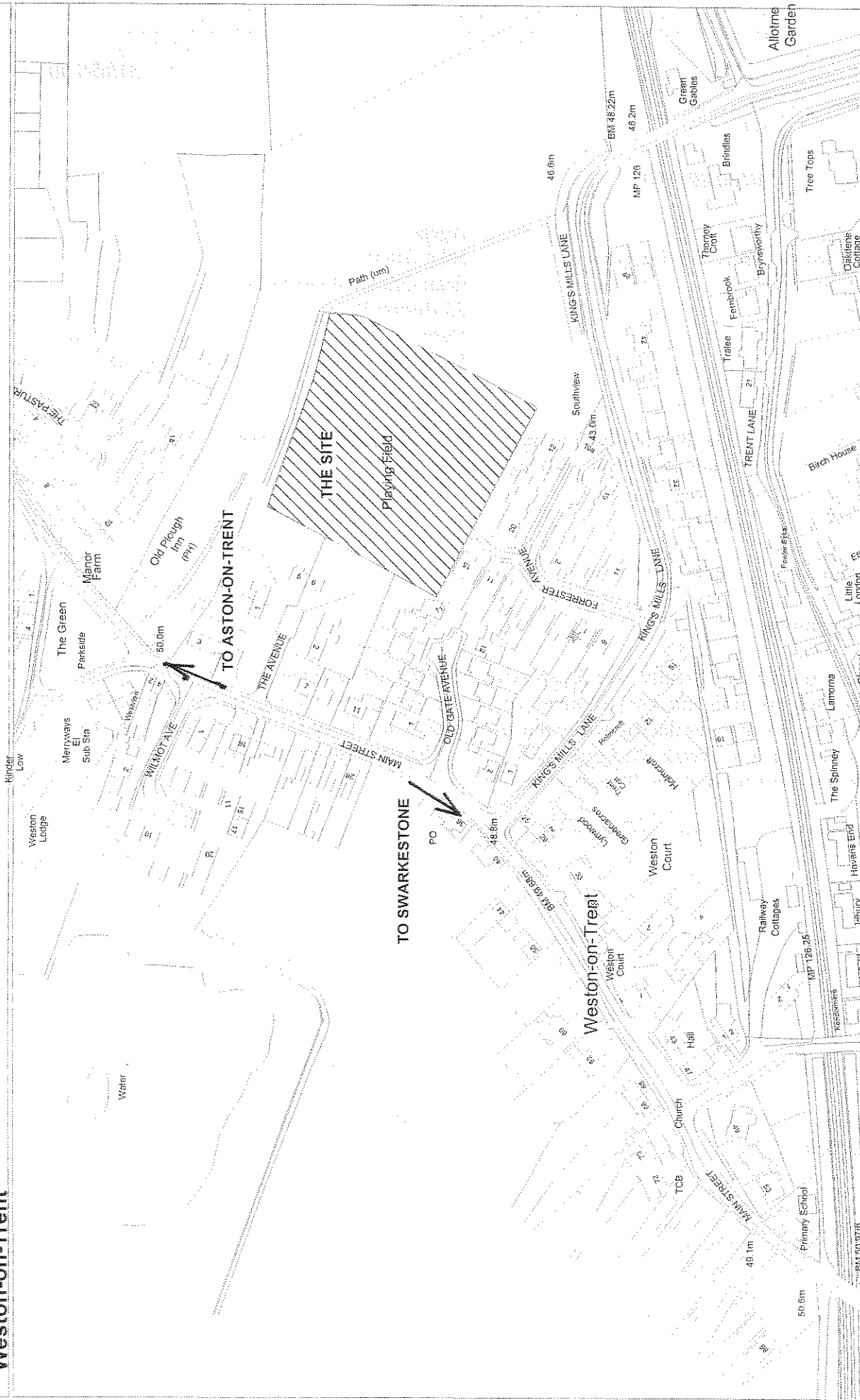
Proposal

The school would be an L shaped building of modern design positioned towards the western and northern boundaries of the site. It would be predominantly single storey, with a higher main hall and central hub at the north-west corner. The western wall of the building would be cut into the sloping site by about 500 mm. Thus the height of the main single storey block relative to ground levels at Nos 5 & 6 The Avenue would be about 3.5 metres. The main hall and central hub would be about 5.8 m high relative to this datum. The centre line of the north-south axis of the building would be at roughly existing ground levels with its most easterly end (on the east-west axis) being about 1.5 m above ground level. The classrooms would have aspects facing the playing fields

Parking for staff would be positioned alongside the boundary of the site with Nos 5 & 6 The Avenue. Service access and a refuse enclosure would also be provided in this area. Visitor parking would be provided adjacent to the boundaries to 11 Oldgate Avenue and 15 Forrester Avenue.

Whilst the land would be remodelled adjacent to the proposed building, to account for the sloping site, the playing field area would be at about the same ground level as existing.

9/2005/0150/F Land at Forrester Avenue Weston-on-Trent



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Scale 1:2500
Plot centred at 428536 325343

Date Plotted 19/5/2005
9/2005/0150/F Land at Forrester Avenue
Weston-on-Trent

Pedestrian and vehicular access to the school would be via Forrester Avenue. Whilst initially proposing a drop off area for children arriving at school by car this element of the proposal has been omitted in an amended plan, following the advice of the Highway Authority. A proposed pedestrian link to the Plough car park has also been deleted. The main entrance to the school would face the site access.

Security fencing is proposed to all boundaries, 2 m in height adjacent to residential property and 2.4 m elsewhere. The drawings indicate the use of Willow trellis adjacent to the security fence along the residential boundaries.

Applicants' supporting information

The applicant makes the following statement:

- a) The existing school and site is cramped, inadequate and uninviting, so the concept for the new school is aesthetics, light and a variety of materials, colours and textures.
- b) The new buildings should be modern, flexible, secure and have good facilities and designed to show an age progression from the Foundation Unit through to Key stage 2.
- c) The building would be sited at the top of the site to take advantage of the sun and views to the south over the sports field. It would be well away from existing houses, so as not to cause loss of amenity. Roofs would be shallow pitched to reduce massing and visual intrusion.
- d) To limit impact on the site, and to reduce hard paving, facilities for vehicles would be located directly off Forrester Avenue.
- e) The remainder of the site would be a grassed sports field, with a hard paved area adjacent to the school, plus a netball court, which would double as a hard play area.
- f) The school would be a single storey L shaped form, established after numerous meetings with the Diocesan Director of Education, the head teacher, school governors, teaching staff and members of the Education Authority.
- g) There would be a central hub where the corridors change direction. This would also be used as crush space outside the main hall.
- h) Administration and staff areas would be located around the main entrance for security and supervision of visitors. Pupils would have a separate entrance through a gated security zone. The main entrance is designed to welcome visitors.
- i) The classrooms are arranged to denote age progress through the school.
- j) The hall is the highest element and would be used for worship, sport, games and meals. Changing rooms would be adjacent and there would be external access to the sports field.
- k) Variation in window heights and materials colours and textures would give interest and stimulation to pupils and provide a dynamic working environment for staff.
- l) The school would have a design life of 75 years, during which time fossil fuels will become depleted and expensive. Construction must therefore be energy efficient with high levels of insulation and good natural lighting/solar gain. Heat loss would be designed to exceed Building Regulations requirements by 50%. This would be achieved by the use of externally insulated and rendered thermal blocks. Standard brick/block cavity walls cannot achieve the required values. In addition other energy saving measures are being considered.
- m) The building would be a modern high quality design, using best quality materials, all intended to create an exciting school with a friendly ethos.

A school travel plan has been submitted, containing survey information, objectives and measures for implementation and monitoring. The stated objectives of the travel plan are as follows:

- a) To establish and maintain a school ethos that incorporates the encouragement of means of transport other than the car; the promotion of congestion free school gates; and creating safer journeys to school.
- b) To encourage a healthy attitude and walking culture amongst the school community that will lead to a healthier life style and associated environmental benefits.
- c) To foster children and parents' understanding of travel and road safety, to make them aware of the issues, particularly with regard to the school journey.
- d) To encourage children to take what they have learnt about travel choices and road safety issues on the school journey and adopt them in other areas of their lives, now and in the future.

With regards to car journeys the travel plan identifies the following matters:

- a) The catchment area is Weston on Trent and the Willow Park estate at Aston on Trent. As an aided school, children also come from outlying areas i.e. Chellaston, Thulston and Long Eaton.
- b) Presently approximately 55% of the 93 pupils on the roll arrive by car. Some are dropped off as part of other journeys made by parents.
- c) Some of the cars are not fully occupied and some drivers have offered to give lifts to others.
- d) The school would promote car sharing amongst those who live in the same vicinity and rely on the car as their only viable means of transport, and encourage those who live within walking distance to do so.
- e) Parents would be encouraged to avoid parking near the school gates at a sensible location that would not impede the safety of others. The parents would then be encouraged to walk the final part of the journey, to adhere to the school's walking ethos. Currently the Village Hall car park is used for this purpose but other venues would be investigated as appropriate.
- f) The feasibility of encouraging more children to cycle to school would be assessed subject to appropriate safety measures.
- g) There is low demand for a school bus.

The Travel Plan also states that coach journeys would continue to start and finish from either Trent Lane or Main Street, as at present.

Responses to Consultations

The Parish Council comments as follows:

- a) Parishioners welcome the new school but have understandable concerns regarding traffic, bearing in mind that Forester Avenue is narrow and with virtually no on street parking space.
- b) The Parish Council is disappointed that the Travel Plan did not accompany the application when it was submitted.
- c) The village is 'un-serviced' and thus relies on the private car for transport. Also, as an aided school, children will be admitted from the Deanery and will need to rely on cars to reach the school. Additional parking provision should therefore be provided within the site.

- d) All existing trees and hedges should be retained.
- e) There is concern over the precise siting of the boundary fences, in respect of potential damage to neighbouring property and existing boundary trees and hedges.
- f) The close proximity of the football pitch to the properties in Forrester Avenue could cause danger to its users and nuisance to neighbours.
- g) Any raising of ground levels could have an adverse impact on neighbours.
- h) Parishioners raised concerns about the proximity of the buildings and service facilities to neighbours, the storage of refuse bins, odours from cooking, the design of the gates, the refusal of more minor applications on highway grounds, and that the design and colour of the building would not be in keeping.

In response to the amended scheme the Parish Council objects to the deletion of the pedestrian access to Main Street and the loss of the drop-off zone for the following reasons:

- a) The pedestrian access would be a good distance from Main Street. There is no past record of any hazards.
- b) If the footpath is now considered dangerous then the County Council should provide safety fencing.
- c) Parking in the pub car park by parents would be a matter for the landlord.
- d) There is a bus stop at the point where the footpath exits onto Main Street, which has been in place for many years. School children assemble there for collection by the school bus to Chellaston School.
- e) The removal of the drop-off zone would encourage parking in Forrester Avenue, where there is already considerable concern about the potential problems associated with cars dropping off children at the school.
- f) A site visit is requested so that members can inform themselves of the actual situation.
- g) The Parish Council approves the Travel Plan.
- h) The Parish Council feels very strongly that parking spaces must be retained within the site, as these would help to alleviate problems raised by residents about parking in Forrester Avenue.

The Parish Council also lists the following points raised from a meeting of residents of Forrester Avenue and The Avenue:

- a) The School Travel Plan is ineffective.
- b) Access should be by a one-way system through Forrester Avenue and on to Kings Mills Lane via land presently owned by another, which should be compulsorily purchased.
- c) Forrester Avenue should become a resident/visitor only parking area.
- d) Times should be altered to enable use of the 9.05 am bus.
- e) The Plan has not been signed by the County Council.
- f) In a letter from David Tysoe to the Chair of Governors dated 12/11/04 following the meeting of the Derbyshire Schools Organizing Committee it is stated: "The Committee acknowledged the concerns of residents living in Forrester Avenue about the increase in traffic that would result from the building of the new school on the land at the end of Forrester Avenue, but noted the steps taken by the Governing Body and the Diocese of Derby to provide sufficient parking spaces on the new school site for all the staff and parents and for the provision of a pedestrian access to the school from Main Street. The committee noted that the land at the end of Forrester Avenue had been clearly marked on the Local Plan as earmarked for education use for many years, in particular, prior to the building of the houses in Forrester Avenue."

- g) The foregoing statement appears to indicate a lack of communication as the Highway Authority seeks the deletion of the parking spaces and has doubts about the pedestrian access.

In response to the original submission the Highway Authority raised two issues, notably the absence of a School Travel Plan, and the provision of a parental parking and drop-off point within the school site. The Authority notes that the latter point has proved contentious with some local residents. The following comments are made by the Highway Authority in response to the amended plan:

- a) Representatives of the school were advised in October 2003 that the provision of parental parking facilities and a drop-off zone within the site would not be considered favourably. Experience indicates the existence of such facilities encourages parents to drive to and from the school site and increases the potential for conflict with young pedestrians.
- b) The Travel Plan addresses the preceding issue by; impressing upon parents and pupils that the preferred means of travel is by forms of transport other than the car; the promotion of congestion free school gates; and that if use of the car is unavoidable parents would be encouraged to avoid parking near the school gates and to park elsewhere at a sensible location that would not impede the safety of others – parents would then be encouraged to walk the final part of the journey to adhere to the school's 'walking ethos'.
- c) The continuous, maintenance, monitoring, evaluation and, as necessary, amendment of the School Travel Plan should be a condition of planning permission or made subject to a Section 106 Agreement or undertaking.
- d) It is acknowledged that some residents may remain unconvinced that significant vehicle movements and parking would not take place in Forrester Avenue. The Committee can of course balance these concerns against the disbenefits of on-site parental parking identified above when considering the overall merits of the proposals.
- e) In the event of some parking and manoeuvring taking place in Forrester Avenue this would likely raise issues of short-term loss of amenity and nuisance rather than specific detriment to highway safety.
- f) It is understood that some residents have also raised concern regarding the traffic implication of out of school activities. In principle the proposed staff and visitor parking spaces could be used in these circumstances.
- g) The omission of the pedestrian link to The Plough car park addresses concerns regarding the potential for increased use of that car park access, which is severely substandard in terms of visibility for emerging drivers and pedestrians crossing east-west towards The Green.
- h) The revised proposals are now acceptable to the Highway Authority.

The Crime Prevention Design Advisor considers the school to be well laid out in respect of community safety and crime prevention point of view.

The Environment Agency and Severn Trent Water Ltd have no objection in principle.

The Environmental Protection Manager recommends a site investigation for contaminated land, due the proximity of an old landfill site.

Responses to Publicity

Letters have been received from 13 local households, objecting as follows:

- a) The design and materials for the building would be out of keeping with the area.
- b) The levels of the playing field are not specified.
- c) There could be an increase in flooding in Kings Mills Lane and at the bottom of Forrester Avenue.
- d) The fence and gates are not necessary and would be visually harmful.
- e) The fencing adjoining residential property could lead to maintenance problems and loss of outlook.
- f) The proximity of the football pitch to neighbours would be too close, causing risk to children and inconvenience to neighbours.
- g) The only vehicular access to the site is via Kings Mills Lane and Forrester Avenue. Both are quiet, narrow residential streets.
- h) Parking and drop-off facilities would attract traffic to the school along Forrester Avenue.
- i) The access is too narrow to enable two-way traffic along with pedestrian access. Therefore the proposal raises major road safety issues.
- j) The development would lead to on-street parking in Kings Mills Lane and Forrester Avenue. This is a well-established problem at a number of existing schools including the present school at Weston on Trent.
- k) There could be difficulties with service and emergency vehicles seeking to gain access to the school.
- l) Land adjacent to Kings Mills Lane should be purchased to facilitate access therefrom.
- m) The travel plan should have been submitted with the application. Residents have sought consultation with the school over the last 12 months. Further consultation should be undertaken.
- n) The travel plan does not address the key issue of traffic management and was prepared prior to the amended scheme.
- o) The travel plan does not address the traffic management issues in Forrester Avenue. Permission should not be granted unless the Travel Plan can be enforced. In the absence of this there would be traffic chaos in the vicinity of Forrester Avenue and Trent Lane.
- p) The travel plan acknowledges that car travel is higher than the national average. This is probably because the school attracts pupils away from the local area. There could thus be up to 60 car visits at peak times.
- q) The increased capacity of the school would draw in more children from outside the local area.
- r) The plan does not specify how people's wishes to change from car usage would be implemented.
- s) The plan does not specify how the promotion of congestion free school gates would be implemented. The provision of a drop-off point would have the opposite effect.
- t) Whilst reference is made to the use of the Village Hall car park by vehicles bringing children to school this facility may not remain available.
- u) Measures to increase cycling would be ineffective.
- v) The travel plan does not address the issue of after school activities, which currently cause difficulties and inconvenience when the school field is used. Indiscriminate parking in Forrester Avenue often causes traffic to be obstructed.
- w) Unrestricted access and parking in Forrester Avenue should not be allowed. Residents have a number of positive suggestions to discourage car usage and congestion.
- x) Permission should not be granted until the traffic management issue is resolved.
- y) There would be loss of light to neighbours.
- z) There would be noise and pollution from delivery vehicles and visitors' cars.
- aa) The waste area could cause problems to neighbours, particularly in the summer, from litter, pests and odours.
- bb) Fumes from the boiler room could affect neighbours.

- cc) The use of the Plough car park would be dangerous.
- dd) The existing use of the field for community purposes would be lost.
- ee) The new playing field should be made available to the community.
- ff) Existing trees and hedgerows should be retained.
- gg) The land has been used as a pedestrian route for more than 20 years.
- hh) There would be loss of privacy to neighbours.
- ii) The building should be sited away from dwellings.
- jj) Aston Hall Hospital would be a better site.
- kk) The footpath link through the Plough should be retained as it provides safe access from the bus stop to the school site. In its absence traffic in Forrester Avenue would be increased.
- ll) A turning circle within the site would be needed to allow commercial vehicles to gain safe access to the school.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1 & 3, Environment Policy 17 and Transport Policy 1

Local Plan: Community Facilities Policy 2 and Transport Policy 6.

Emerging Local Plan: Policies ENV 12, 16 & 21, T1 & T9 and C5 & C6.

Planning Considerations

The main issues central to the determination of this application are:

- The principle.
- Traffic and highway safety.
- Residential amenity.
- Impact on the character and appearance of the area.
- Energy, drainage and personal safety.

Planning Assessment

The existing school has been unsatisfactory for current requirements for some years. It is understood that concerted efforts have been made to bring forward a scheme for its replacement over a long period of time. The application site has been safeguarded for educational purposes through the adopted and emerging local plans. There was no objection to the either plan. It was clear from the local plan proposals map that the only connection to the highway would be at Forrester Avenue. Therefore the proposal is acceptable in principle and would enable a most important education facility to be made available to the community.

The considered view of the Highway Authority is as set out above. It would be appropriate to secure implementation and monitoring of the Travel Plan through a suitable legal undertaking.

Residents would likely be aware of parents and children approaching and leaving the school. Whether children would be brought to the school gates by car would depend on the implementation of the travel plan. There would also be a certain amount of noise from the site during break time and games periods.

However the impact on residential amenity would be limited to certain times of the day only and needs to be balanced against the clear community benefits that would result from the project. The design of fencing could be controlled through an appropriate condition, but a mesh rather than palisade design would seem to offer the best solution for residents, in terms of appearance. Where necessary additional screening could be incorporated to secure privacy to neighbours and to prevent outlook over service and parking areas.

The school displays an innovative modern design that would be appropriate to the character of the area and symbolic of its educational function. The materials enable high-energy efficiency to be achieved and the use of a rendered finish, subject to appropriate colouration, would be appropriate to this modern design. The comments in respect of the fence in the preceding paragraph apply also to this issue.

The design meets the safety advice of the Crime Prevention Design Advisor.

The issue of drainage is capable of being safeguarded by an appropriate condition.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications (including colour) and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
Reason: In the interests of the appearance of the area.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

6. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

7. No development shall take place until the applicant has submitted to and had approved by the Local Planning Authority a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to secure the continuous implementation, monitoring, evaluation and, as necessary, amendment of the School Travel Plan submitted under cover of the agent's letter dated 22 March 2005.

Reason: In the interests of highway safety and residential amenity.

8. Space shall be provided within the curtilage for site accommodation, plant and materials storage, lorry loading/unloading, parking and turning space, and employee/visitor vehicle parking and turning space in accordance with a scheme that shall have previously been submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided in advance of construction work commencing and shall be maintained throughout the construction period.

Reason: In the interests of highway safety.

9. No development shall be commenced until measures have been introduced to prevent the transfer of debris and other extraneous material onto the public highway during the construction period, in accordance with a scheme that shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be employed so as to prevent the transfer of such material onto the public highway throughout the construction period.

Reason: In the interests of highway safety.

10. The development shall not be brought into use until the vehicular access road, pedestrian access, car parking space, vehicle turning head and cycle racks have been provided in accordance with the scheme shown on the submitted drawing No. 267.04A. The access road, pedestrian access, parking spaces and turning head shall be surfaced with a solid bound material and the spaces marked out. Thereafter the facilities shall be retained accordingly for their designated uses.

Reason: In the interests of highway safety.

11. Unless as may otherwise be approved in writing by the Local Planning Authority sole vehicular and pedestrian access to the site shall be from Forrester Avenue.

Reason: In the interests of highway safety.

12. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:

1. A desktop study of the area of the proposed development.

2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
4. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

13. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

14. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

For the discharge of the site investigation, as a minimum, the report should include:

- a) Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- b) Detailed on site sampling to identify any contamination.
- c) The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- d) An assessment of any off site impacts such as the effect on watercourses etc.
- e) A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- f) Plan of action if further contamination is identified during remediation.
- g) Details of the measures to verify that the contaminant has been removed to an acceptable level.
- h) The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- i) Details of the long and short term risk to human health including the construction phase and post-development.

- j) Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following:

- I. Model Procedures for the Management of Land Contamination CLR 11
- II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA
- III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
- IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- V. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.

Soil contamination or the potential for it is a material planning consideration and must be taken into account by a local planning authority in the determination of a planning application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

If a reclamation strategy is submitted and agreed by the planning authority compliance with it will be condition of any subsequent approval.

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy. To note the attached advice of the Crime Prevention Design Adviser.

31/05/2005

Item 1.5**Reg. No.** 9/2005/0305/U**Applicant:**

Andrew E Jackson
 Highfield Sleepy Lane
 Kings Newton
 Derby
 DE73 8BU

Agent:

Andrew E Jackson
 Highfield Sleepy Lane
 Kings Newton
 Derby
 DE73 8BU

Proposal: The use as a 24 hour taxi base of land/building at Bridge Farm Sinfin Lane Barrow-on-Trent Derby

Ward: Aston

Valid Date: 18/03/2005

The application is brought to Committee on the instruction of Councillor Atkin

Site Description

The site lies at the corner of the Barrow on Trent by pass and Sinfin Lane. It contains a range of buildings including the one subject to this application, which is a pre-fabricated office structure.

Proposal

The site would be used a base for a private hire company run on a 24 hour basis. It is understood that the business would serve the Chellaston area.

Planning History

The site was part of a substantial market garden business until the end of the last century, but more recently the old farm sheds have been in use for general storage and business use (9/1999/0270).

Responses to Consultations

The Parish Council is concerned about noise at night, especially given current problems with night movements in the area.

The County Highway Authority and Environmental Protection Manager have no objection in principle.

Structure/Local Plan Policies

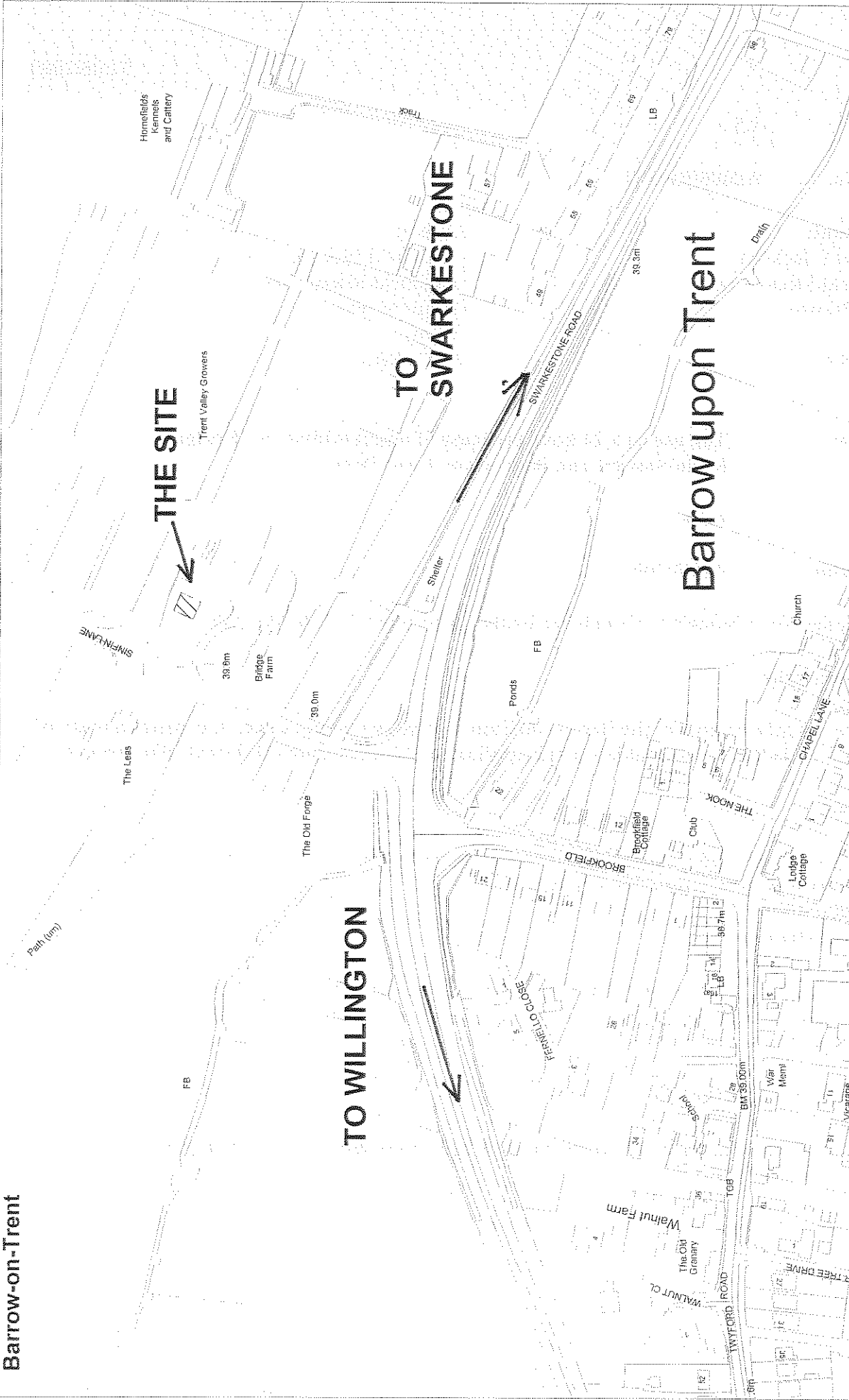
The relevant policies are:

9/2005/0305/U Bridge Farm

Sinfin Lane

Barrow-on-Trent

Pond



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Scale 1:2500

Plot centred at 428536 325343

Date Plotted 19/5/2005

9/2005/0305/U Bridge Farm
Sinfin Lane
Barrow-on-Trent



Joint Structure Plan: General Development Strategy Policies 1 & 4 and Economy Policy 5

Local Plan: Employment Policy 4.

Emerging Local Plan: Policy EMP2

Planning Considerations

The main issues central to the determination of this application are:

- The principle.
- Impact on the character of the area.
- Residential amenity.
- Highway safety.

Planning Assessment

The principle of making use of a rural building for business use does not conflict with development plan policy. Given the nature of private hire operations, the site is no less sustainable than any other within the general vicinity of the applicant's area of business.

Given that vehicles would usually be away from the site the impact on the character of the area would be minimal.

The Environmental Protection Manager recommends conditions to control noise from the premises. However a temporary permission to enable the impact of the use to be assessed would safeguard the amenities of neighbours.

Subject to a condition requiring adequate provision for vehicles when they visit the office there would be no demonstrable harm to highway safety interests.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. This permission shall be for a limited period only, expiring on 31 May 2006 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: To enable the Local Planning Authority to assess the impact of the use on the amenities of the occupiers of nearby dwellings.

2. Before the use commences areas for the parking and manoeuvring of all vehicles likely to visit the site at any one time shall be hard surfaced and marked out in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

31/05/2005

Item 1.6**Reg. No.** 9/2005/0324/F**Applicant:**

Repton Properties Ltd
61 Longlands Lane
Findern
Derby
DE65 6AH

Agent:

The Taylor John Partnership
28 Kingsdale Croft
Stretton
Burton Upon Trent
Staffordshire
DE13 0EG

Proposal:

The demolition of 2 pairs of semi detached houses and the erection of 6 detached houses on Land At 22-28 Askew Grove Repton Derby

Ward:

Repton

Valid Date:

18/03/2005

Site Description

These two pairs of semi-detached former Council houses with long rear gardens are on the north side of Askew Grove on the east side of the public footpath, known as Cinder Path, linking to Milton Road. They form part of a small estate of similar post war dwellings of timber construction clad in timber and ash felt tiling.

Proposal

It is proposed to demolish the dwellings and erect six detached dwellings. Four of the dwellings would front onto Askew Grove and the remaining two would be sited in the rear garden area with a centrally located access to the highway. The forward most dwellings would be two storeys high with four bedrooms and the rear two would be of a similar style but with a fifth bedroom and en-suite occupying the roof space.

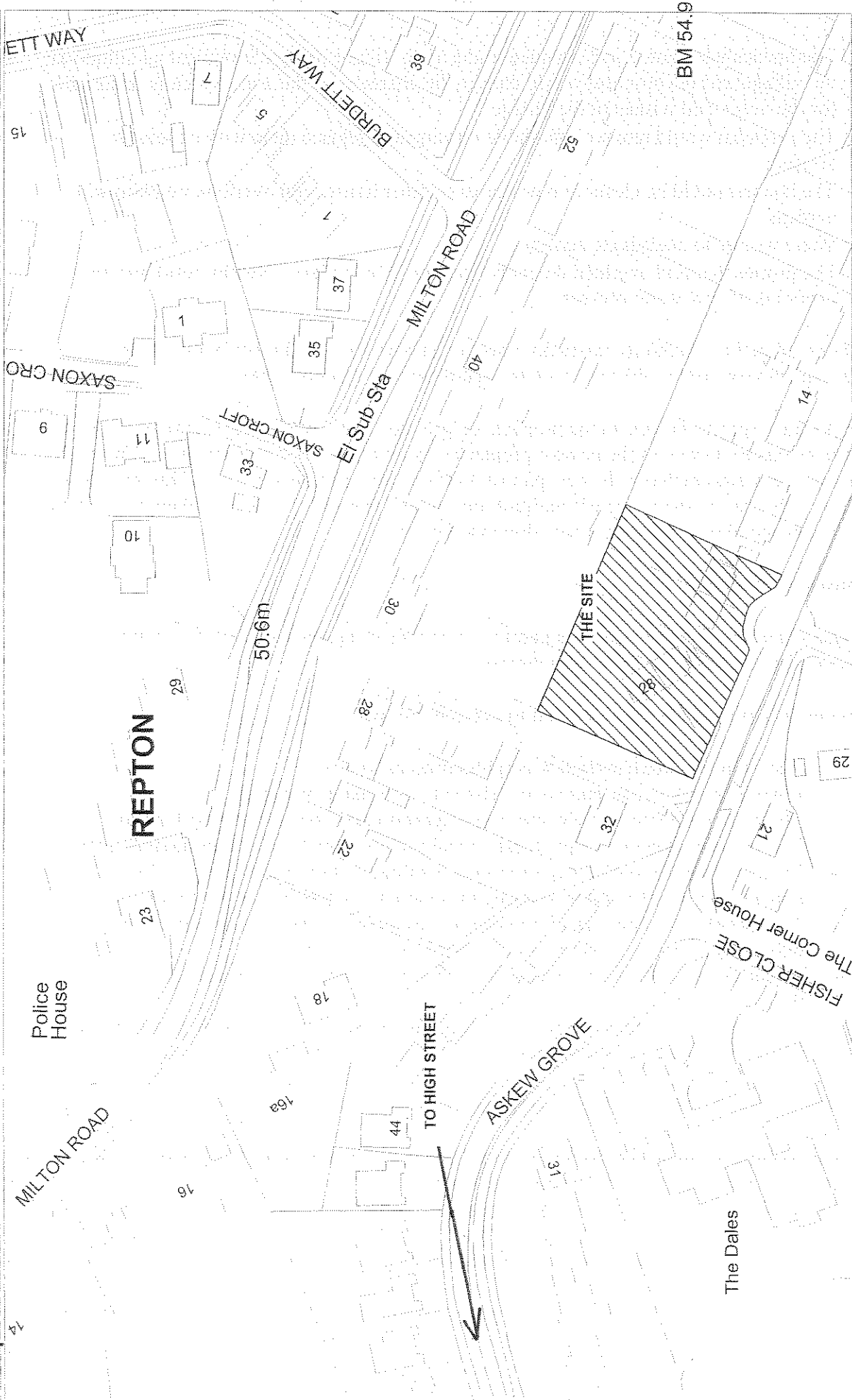
The external materials would be brick to first floor with vertical boarding above extending to eaves level, to reflect the influence of the neighbouring timber boarded houses.

Planning History

Planning permission was granted for the demolition of the pair of semi-detached dwellings next to the Cinder Path and erection of two detached dwellings of very similar design in December 2004.

Responses to Consultations

Repton Parish Council objects to the proposal on the following grounds:



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Scale 1:1250
Plot centred at 428536 325343

Date Plotted 19/5/2005

9/2005/0324/F Land at 22-28 Askew Grove
Repton



- The houses were noted and included in the draft Village Design Statement as unique to the village and the proposal would change the character of the area, which is unsuitable for the needs and wishes of the village.
- The proposal would remove affordable housing and replace them with expensive housing.
- The houses would be closer to boundaries of other houses and overlook neighbouring gardens.
- There would be inadequate parking
- The proposal would overload the infrastructure of the village. Nearby residents have experienced low water pressure.

The County Highway Authority raises no objection subject to amendments being made to vehicle manoeuvring space, driveway widths and improved visibility splays.

Repton Village Society objects to the proposal on grounds that it represents a change of character to the top of Askew Grove as the present properties are of cedar wood construction. The cinder track forms a division between the new part of Askew Grove and the top area. This split would be broken. The loss of the pavement building line would change the cohesive character of the area. The proposed development would dominate the area.

Responses to Publicity

Seventeen letters and a petition of 27 signatures objecting to the proposal and two letters of support subject to conditions have been received.

The seventeen letters of objection are summarised as follows:

- The proposal would overlook neighbouring gardens.
- It would result in the removal of relatively affordable properties.
- There are other brown field sites more appropriately located for development.
- The proposal due to its high density would not be sensitive to its immediate setting.
- The development could set a precedent resulting in this area of former Council housing being redeveloped spoiling the character of this part of the village forever.
- The existing buildings are an interesting design and an asset to the village and are mentioned in the Draft Repton and Milton Design Statement.
- Would result in increased danger for pedestrians particularly children going to and from school.
- The proposal would result in traffic noise and disturbance in a relatively quiet area.
- The proposal would unsettle the balance of community life in the area.

The objections raised in the petition are summarised as follows:

- Developing six detached dwellings on a plot for four would cause disturbance and encroach on the privacy of surrounding residents.
- The access at the top of a hill on a narrow road would not be in the best interests of highway safety.
- Askew Grove is not designed to withstand construction traffic neither in stability or width and is already in a poor state of repair.
- If the development is allowed The Crescent should not be used for parking construction workers vehicles.

Two letters of support have been received subject to the development ensuring that:

- It improves the local area.
- Is not of too higher density and size.
- Is not detrimental to highway safety.
- There is as much greenery as possible retained and further landscaping provided.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5, Transport Policy 4.

Local Plan: Housing Policy 5, Housing Policy 11, Transport Policy 6

Emerging Local Plan: H1, ENV21, T1

Planning Considerations

The main issues central to the determination of this application are:

- The principle of the development.
- Loss of privacy to neighbouring residents.
- The scale and density of the development and the relationship with the character of the area.
- Loss of greenery/vegetation.
- Highway safety.

Planning Assessment

The principle of the development

The site falls within the definition of previously developed land and is within the Repton Development Boundary as defined in the adopted and emerging Local Plan. Residential development of the site is therefore acceptable in principle.

Loss of privacy to neighbouring residents

The proposal has been considered against the Council's planning guidance for housing layouts and design. In terms of privacy, the proposal would be in accordance with the guidance. The two plots at the rear of the site would introduce development that would be significantly closer to the rear boundary of dwellings on Milton Road. These dwellings, however, have long rear gardens giving a separation distance between dwellings of some 40metres. The planning guidance requires 21 metres. The proposal is therefore acceptable in this regard.

Impact on the character of the area

In terms of density, the existing built density across the site is some 20 dwellings per hectare, with 28 Askew Grove built at a density of 15 dwellings per hectare. The Government recommended density is a minimum of 30 dwellings per hectare. Whilst low density development has become an established characteristic of the area, this has to be balanced against the objective of achieving more efficient use of land for housing in built up areas and whether in reality a higher density, albeit only the Government recommended minimum, would cause

demonstrable harm to the amenities of the area. The realignment of the building line and making use of the large rear gardens has enabled a sympathetic increase in density to be achieved. As a condition of planning permission, further and, likely, better planting could be achieved on the site and along with the use of characteristic timber cladding the development would assimilate satisfactorily into the existing streetscene. The height of the dwellings would not exceed those neighbouring the site.

Highway safety

Following the advice of the Highway Authority and subject to achieving the required amendments, the proposal would not be detrimental to highway safety.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

Provided that no objection is raised by the Highway Authority then **GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. No development shall commence on site in connection with this permission until samples of materials for the external elevations of the buildings have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved samples.

Reason: To ensure the materials are appropriate in the interests of safeguarding the appearance of the area.

3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

5. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

6. Gutters, downpipes, eaves fascias and barge boards shall have a black finish.

Reason: In the interests of the appearance of the building and to safeguard the appearance of the area.

7. The garage doors shall be vertically boarded timber.

Reason: In the interests of the appearance of the development and the locality.

8. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally.

31/05/2005

Item 1.7**Reg. No.** 9/2005/0351/M**Applicant:**

East Midlands Self Storage Ltd
 Sinfin Lane
 Barrow-on-Trent
 Derby
 DE737HH

Agent:

East Midlands Self Storage Ltd
 Sinfin Lane
 Barrow-on-Trent
 Derby
 DE737HH

Proposal:

Outline application (all matters reserved except for siting and access) for the erection of a storage building at the premises of East Midlands Self Storage Ltd Sinfin Lane Barrow-on-Trent Derby

Ward:

Aston

Valid Date:

21/03/2005

The application is brought to Committee on the instruction of Councillor Atkin.

Site Description

The site lies at the edge of the village to the north of the A5132 Barrow by-pass. It is roughly half of the former Trent Valley Growers site. The existing buildings, amounting to some 1632 sq m, are now used for the purposes of business and storage.

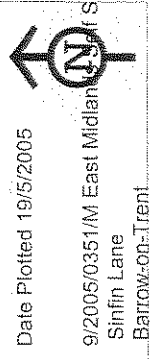
Proposal

It is proposed to erect a building of some 1500 sq m to the east of the existing premises. The application is on outline, with matters other than siting and access reserved.

Applicants' supporting information

- a) The policies of the development plan should be read together.
- b) Policies support the expansion of existing businesses.
- c) Policies to avoid development in the countryside in the first place thus have less significance.
- d) If policy sought to support the expansion of businesses in towns and other settlements only, it would say so.
- e) The only criterion of policy is that it should not be detrimental to the character of the area. The proposed modest extension to the existing buildings would accord with that policy. Visually the existing buildings are well screened from most public views and the recent development on the adjoining site (a food packaging shed) would further limit visual impact.
- f) The proposal is not objectionable on highway safety, amenity or environmental grounds.

Barrow-on-Trent



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- g) Open storage is allowed under the current permission. The applicant is prepared to relinquish this if permission is granted, which would bring clear visual advantages.
- h) From an economic development viewpoint this type of business has significant advantages. The site is well related to existing users. The business needs modest growth to survive. If the business fails there are no other self-storage units in the locality. Customers would thus need to find an alternative site some distance away, which is neither good for sustainability objectives nor the increased costs to those other businesses. Therefore to regard the premises as having a low employment rate is somewhat simplistic.
- i) A list has been provided showing that customers comprise predominantly local businesses and private individuals. Therefore the premises are a useful facility for the South Derbyshire area.
- j) The remainder of the applicants' site could be developed for recreational purposes by the provision of more fishing lakes.

Planning History

Permission was granted in respect of the re-use of the existing buildings for their current purpose in 1999 (9/1999/0270/U).

Responses to Consultations

The Parish Council is concerned about the steady industrialisation of the site and the increase in vehicles on the narrow road. Barrow is a non-serviced village and it seems illogical to allow development of a site that increases the use of the private car when the emerging local plan seeks to reduce it.

The Highway Authority, the Environmental Protection Manager and the Environment Agency have no objection in principle.

Responses to Publicity

A neighbour raises the following concerns:

- a) The appearance and size of the building should be in keeping with the rural area and its height should not be excessive.
- b) There could be an increase in noise and disturbance as the building would be closer to residential property than the existing buildings.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1, 3 & 4 and Economy Policy 4

Local Plan: Environment Policy 1 and Employment Policy 1

Emerging Local Plan: Policy EMP2

Planning Considerations

The main issues central to the determination of this application are:

- The principle.
- Sustainability.
- Impact on the countryside
- Residential amenity.
- Highway safety.

Planning Assessment

The existing business use is only present because of policies that allow the re-use of existing rural buildings for business purposes. Nevertheless once a business is established the policies pertaining to existing businesses become relevant. These favour expansion subject to environmental safeguards. PPG4 states that in rural areas applications for development necessary to sustain the rural economy should be weighed with the need to protect the countryside in terms of, for example, its landscape, wildlife, agriculture, natural resources and recreational value. PPS7 supports the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives. It states that local planning authorities should be particularly supportive of the re-use of existing buildings that are adjacent or closely related to country towns and villages for, inter alia, economic uses. PPS7 does not give additional advice on the expansion of businesses operating from converted buildings nor does it advise against. The balance of policy guidance would favour the principle of development.

The issue of sustainability can relate to many facets of development, not least the sustainability of employment. On the basis of the applicant's supporting information the proposal would enable the business to establish long-term viability. In addition it would continue to provide a storage facility for local individuals and businesses, which could also result in a reduction in travel by car and commercial vehicles.

The building would be closely related to an existing group. Such a relationship is usually promoted where development in the countryside is acceptable in principle. In its context the building would not have a significantly harmful impact on the character and appearance of this particular area of countryside.

Subject to a restriction on the hours of operation there would be no greater impact on local residents than as existing.

On the advice of the Highway Authority there would be no harm to highway safety interests.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
(b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the design and external appearance of the building and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

4. No development shall take place until the applicant has submitted to and had approved by the Local Planning Authority a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to secure the permanent cessation of the storage of goods or materials within the land edged red and blue on the submitted application drawing.

Reason: To ensure that the site has a satisfactory appearance.

5. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times nor at any time on Sundays, Bank or Public Holidays:

Monday to Friday: 0700 hrs - 1900 hrs

Saturday: 0700 hrs - 1300 hrs

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

6. Before development commences details of areas for the parking, manoeuvring and loading of all vehicles likely to visit the site at any one time shall be submitted to and approved in writing by the Local Planning Authority and those areas shall be hard surfaced and marked out prior to the first use of the development and thereafter retained for that purpose.

Reason: In the interests of highway safety.

7. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protection.

8. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

Informatives: To note the attached requirements and advice of the Environment Agency.

31/05/2005

Item 2.1**Reg. No.** 9/2005/0161/U**Applicant:**

Boughton Turf Management
 Telford Way
 Telford Way Industrial Estate
 Kettering
 Northants
 NN16 8UN

Agent:

Steedman Planning And Land
 Tournament Way
 Ashby De La Zouch
 Leicestershire
 LE65 2UU

Proposal: The change of use of agricultural buildings to the storage of plant equipment and materials at Poplars Farm Twyford Road Barrow-on-Trent Derby

Ward: Aston

Valid Date: 09/02/2005

Site Description

The site is a modern steel framed agricultural building situated about 80 m to the south of the nearest of a group of converted buildings in residential use. Access to the site is via a private way set to the west of the residential group, some 45 m away from the nearest dwelling.

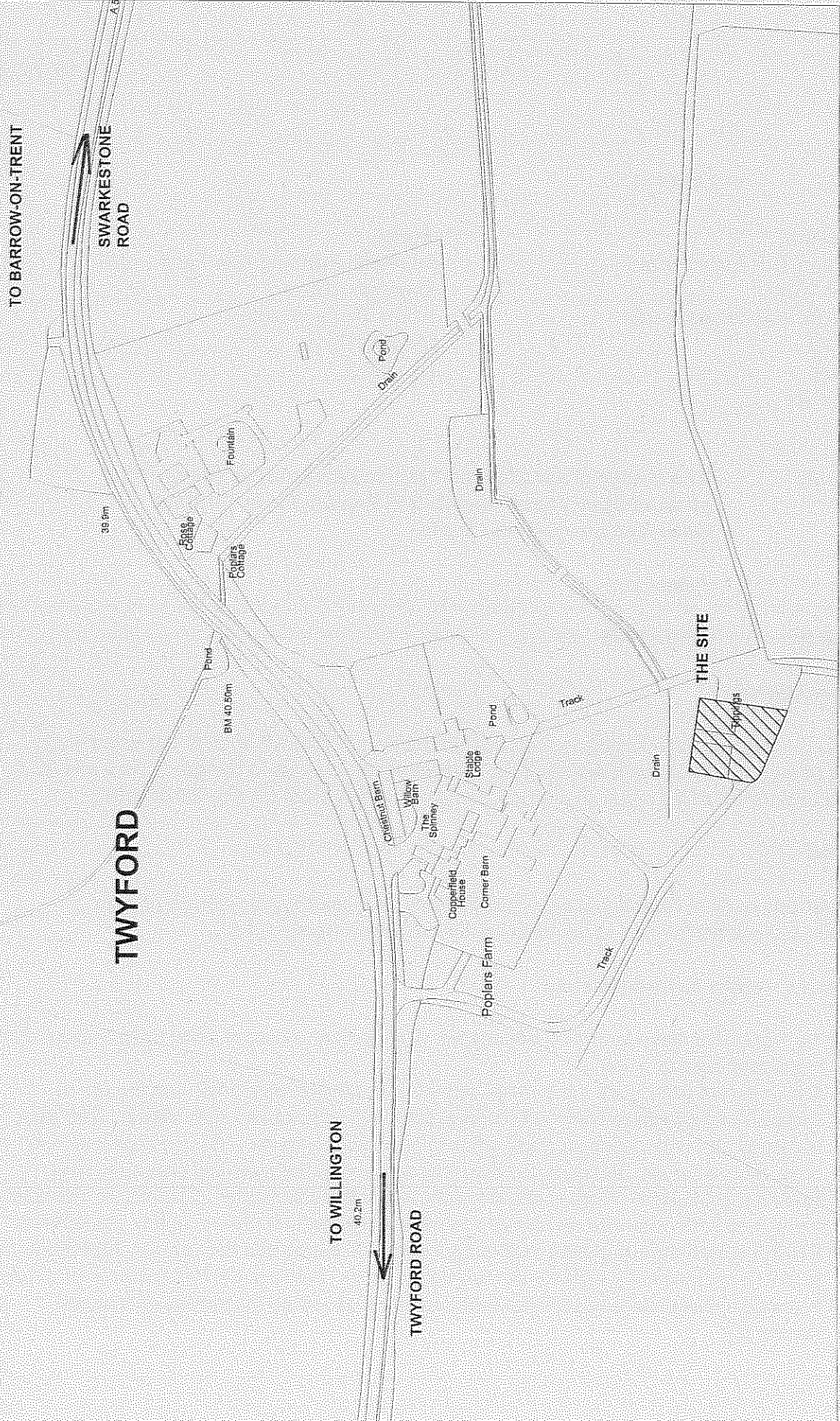
Proposal

The applicant seeks to continue usage of the building as a depot for the storage of plant, materials and equipment used in the business for the improvement of turf.

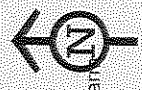
Applicants' supporting information

- a) No work other than the light maintenance of equipment is carried on at the premises. It is essentially used as a store.
- b) The applicant carries out various turf improvement operations, involving the use of specialist equipment to carry out seeding, draining, aeration and fertilisation. The work is carried out over a wide area and tends to be related to sports fields, golf courses and other fine turf areas. Recently the firm was engaged to renovate and repair lawns at Buckingham Palace. Work is about to start at Wimbledon for the LTA and the firm also has a contract to renovate and repair a number of football pitches including Pride Park. For this reason the equipment used is agricultural in nature and the various implements tend to be permanently affixed to small tractor units. Between the 6 employees there are 11 small tractors and 4 larger ones (although these are small by current agricultural standards).

9/2005/0161/U Poplars Farm
 Twyford Road
 Barrow-on-Trent



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- c) The usual daily routine involves employees arriving from home in company pick-up trucks to which trailers are affixed. In addition two small rigid lorries are kept at the site overnight, which are used to carry equipment for larger contracts.
- d) Maintenance of equipment at the site is not of a heavy nature involving mostly cleaning with a pressure washer.
- e) The employees live in the local area at Repton, Willington, Barrow, Aston and Mickleover. They have all previously been engaged in agriculture. The sharp decline in agricultural employment has forced them to seek related work. The nature of the business would not command an urban rent for the size of depot required. Several years ago the farm itself, when operating as a mixed arable and livestock enterprise, would have employed nearly as many people.
- f) The proposal is for a building of less than 1000 sq m and therefore fulfils the criteria in Structure Plan Economy Policy 5. The buildings are a useful economic resource and could be used, without modification, for a range of activities that would contribute the economy of the rural area. Similar cases have been allowed elsewhere within the district – 9/2002/1108 is commensurate.

A noise consultant's report has been submitted, which makes the following observations following investigation of a complaint about noise:

- a) No angle grinder or other similar noisy powered equipment was noted.
- b) There is no pressure washing facility at the site. The washing of equipment is carried out using a mains pressure hose.
- c) A small diesel powered forklift truck is retained on site for loading fertiliser and other stores. The vehicle is modern and appears compliant with the relevant noise regulations.
- d) Periodic maintenance of powered equipment is undertaken which can result in occasional testing of engines. No allegations appear to have been made in this regard. All equipment appears to comply with the relevant noise regulations.
- e) The metal entrance gates are of metal tube, secured with a hooped closure device and padlock. The operation of the gate did not result in discernible noise above daytime ambient background. Noise tests were thus undertaken during the arrival and departure of the employees and vehicles during the early hours. Monitors were placed adjacent to the entrance gate and close to the garage of the adjacent dwelling.
- f) The noise of the gate being opened and closed was not audible above the idling speeds of the 3 inward bound a 3 outward-bound vehicles.
- g) Activity at the buildings could be perceived as low background engine noise but no change was registered in the ambient noise at the entrance gate.
- h) Noise from vehicles is derived almost entirely from the engines, as speeds are low, resulting in no tyre noise component.
- i) No evidence of untoward audible effects arising from the opening and closing of the entrance gate, an angle grinder, or pressure washer has been adduced. There would appear to be no basis for an action in respect of nuisance at Poplars Farm.
- j) Persons other than the applicant company use the access gates. To avoid effects from possible misuse or accidental release of the closure device it is recommended that resilient material be applied to the contact surface.

Following officer advice of objection to the scheme the applicant's agent makes the following comments:

- a) A refusal of permission would ultimately displace the employment of several people.
- b) The business could not operate with a restriction on hours of working.

- c) Given that the business is not of sufficient viability to operate from an industrial unit, the question is posed, because of the nature of the operation, whether there are any other locations more desirable than this one.
- d) The business was operating without complaint until the new farm building was erected.
- e) The farming operation at the site could cause just as much nuisance.

Planning History

Permission was granted to use the building for B1 business purposes in March 2005 (9/2004/1566/U), subject to a condition limiting the hours of use to 0800 hrs – 1800 hrs Monday to Friday, 0800 hrs – 1300 hrs Saturday and at no time on Sundays or Bank Holidays. An agricultural building was permitted in January 2005 (9/2004/1565/F).

Responses to Consultations

The Highway Authority and Environment Agency have no objection in principle.

The Environmental Protection Manager objects on the grounds that activities on the site, particularly in the early hours of the morning, have the potential to cause significant disturbance to nearby residences. The noise report does not consider this in sufficient detail and has not considered a worst-case scenario. The single site visit undertaken during the winter is insufficient to draw meaningful conclusions. If permission is to be granted then several conditions are recommended including a limitation on hours of operation.

Responses to Publicity

Objections have been received from 5 local households as follows:

- a) There is noise and disturbance from vehicles arriving very early in the morning.
- b) The local characteristics of the site mean that noise is amplified at residential properties.
- c) There is noise from maintenance work undertaken at weekends.
- d) Residents are presently experiencing disturbed sleep from early morning noise generated by the applicants.
- e) There would be incremental industrial development at the site.
- f) The land is still farmed so the proposal would result in an increase in traffic.
- g) Larger vehicles have been observed at the site.
- h) It is not necessary for the applicant to be located at Poplars Farm.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 5

Local Plan: Employment Policy 4

Emerging Local Plan: Policies ENV 15 & EMP2

Planning Considerations

The main issues central to the determination of this application are:

- The principle.
- Highway safety.
- Residential amenity.

Planning Assessment

In principle the use of the building for business purposes is capable of satisfying the provisions of the development plan. However the policies also have regard to the impact on the environment and local amenities.

The use has already generated objection on the grounds of disturbance. The extant permission for B1 usage restricts the hours of operation to normal working hours. On the advice of the Environmental Protection Manager the proposal would be demonstrably harmful to the amenities of the occupiers of the nearby dwellings. Whilst Circular 11/95 encourages local planning authorities to grant permission with conditions rather than to refuse, in this case it is apparent that the applicant's business relies on the ability to commence work early in the morning. Therefore the imposition of a condition preventing this early start would not be appropriate in this instance.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

A: REFUSE permission for the following reason:

Because of the incidence of vehicle movements and associated activity during the early morning the development would cause unacceptable disturbance to the occupiers of nearby dwelling houses, to the detriment of their aural amenities, thereby contrary to the following development plan and emerging policies: Derby and Derbyshire Structure Plan Economy Policy 5; South Derbyshire Local Plan Employment 4; and Emerging South Derbyshire Local Plan Policy ENV 15.

B: To authorise the Head of Planning and Head of Legal and Democratic services to pursue all necessary enforcement action to secure the cessation of the unauthorised use.

APPEAL ALLOWED

Appeal by Butler Developments Ltd

The erection of 24 two bedroom apartments and associated external works at Horse & Jockey Meadow Lane Newhall Swadlincote (9/2003/1180)

The application was refused permission for the following reason(s):

- 1. The development if permitted would unduly overbear on the dwellings around the site thereby detrimentally affecting residential amenity contrary to the provisions of the Council's Supplementary Planning Guidance and therefore Housing Policy 11 of the Local Plan and Policy ENV21 of the emerging Local Plan.*
- 2. The proposed building would appear out of scale when compared to other buildings around the site and by virtue of its scale and massing would therefore also appear as an alien feature in the street scene contrary to Housing Policy 11 of the Local Plan and Policy ENV21 of the emerging Local Plan.*

The Inspector considered the main issues to be:

1. the character and appearance of the street scene; and
2. the living conditions of the occupiers of nearby properties, particularly by reason of overbearing impact.

The Inspector agreed that in principle the efficient use of the site for the type of units proposed is generally supported in the context of both national and local policy.

The Inspector considered that the proposed development would be aligned with Robinson Road and Meadow Lane thereby creating street frontages along both and that the surrounding area contained a range of property types of varying form and character. The Inspector noted that the surrounding buildings were predominantly single or two storey however the Inspector considered that the third storey of the proposed development was to be largely incorporated within the roof space and the overall bulk of the building would be broken up by stepping the building line and varying the overall height to reflect the sloping nature of the site. Furthermore the use of locally matching materials was proposed which with careful use and by using tall bays of projecting windows would, in the Inspector's opinion, visually break up the overall form of the building so that it would not appear unduly dominant or overbearing in the street scene.

The Inspector considered that the proximity of the listed St John's Church to the site was not significant enough to prejudice the development of the site.

The Inspector concluded on the first issue that although contemporary in appearance the building would not appear incongruous in the context of the surrounding area and would not unduly harm the character or appearance of the area in accord with relevant policies in the development plan.

With regard to the impact on the living conditions of the occupiers of surrounding properties, the Inspector did not consider that the proposed building would be in such close proximity to the surrounding properties to appear unduly overbearing or oppressive to living conditions and that any loss of privacy within surrounding garden areas would not be so unacceptable to justify planning permission being withheld.

The Inspector concluded that the proposed development would not unacceptably compromise the living conditions of the occupiers of surrounding properties or conflict with relevant development plan policies.

With regard to other matters the Inspector noted the concerns of the local residents in relation to the additional traffic that would be generated by the proposed development. The Inspector considered that the appeal site is situated in a sustainable location and served by public transport thereby the off street parking provided is sufficient. The Inspector noted that the Highway Authority is satisfied that the access is suitable and that the development would not prejudice highway safety. The Inspector considered that the 'traffic calming' effect due to the narrowness of Meadow Lane would result in vehicles travelling at low speeds and therefore be unlikely to prejudice pedestrian or highway safety and that future occupiers of the proposed development are more likely to favour access to and from Robinson Road.

The Inspector also noted the concerns about the future tenure of the apartments and that it is the Appellant's intention to sell the apartments on the open market. However, such concerns about tenure and associated unsocial behaviour is not a reasonable ground for withholding planning permission and the scheme has been designed to provide reasonable levels of public surveillance.

The Inspector noted the conditions suggested by the Council should the appeal be allowed and agreed a sample board of materials being erected on site would be reasonable and details of fenestration and external doors joinery, eaves, verges and band courses, paving, parking access and boundary treatments should all be agreed as this would be important to the successful integration of the development into the surrounding area.

For the above reasons and having regard to all other matters raised the Inspector concluded that the appeal should be allowed subject to conditions.

The application for award of costs made by Butler Developments Ltd failed and no award of costs was made.